

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

MAURICE GALES,

Defendant-Appellee.

UNPUBLISHED

June 14, 2007

No. 269803

Monroe Circuit Court

LC No. 05-034900-FH

Before: Davis, P.J., and Hoekstra and Donofrio, JJ.

PER CURIAM.

Defendant was charged with possession of 50 or more but less than 450 grams of heroin, MCL 333.7403(2)(a)(iii), and possession of marijuana, MCL 333.7403(2)(d). The drugs were found in his car following a traffic stop. Defendant moved to suppress the evidence, challenging the validity of the stop. The trial court granted the motion and dismissed the charges. The prosecutor appeals as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

This Court reviews a trial court's factual findings at a suppression hearing for clear error, but reviews the ultimate ruling on a motion to suppress de novo. *People v Davis*, 250 Mich App 357, 362; 649 NW2d 94 (2002). The trial court's factual findings are clearly erroneous if, after review of the record, this Court is left with a definite and firm conviction that a mistake has been made. *People v Givans*, 227 Mich App 113, 119; 575 NW2d 84 (1997).

"In order to effectuate a valid traffic stop, a police officer must have an articulable and reasonable suspicion that a vehicle or one of its occupants is subject to seizure for a violation of law." *People v Williams*, 236 Mich App 610, 612; 601 NW2d 138 (1999) (footnote omitted). Thus, on reasonable grounds shown, an officer may stop and inspect a vehicle for an equipment violation. *Id.*; MCL 257.683(2). Likewise, an officer may stop a vehicle if he has probable cause to believe a traffic violation has occurred or was occurring. *Davis, supra* at 363; *Whren v United States*, 517 US 806, 810; 116 S Ct 1769; 135 L Ed 2d 89 (1996). An actual violation of the vehicle code need not be proved; all that is required is that the officer had a reasonable suspicion that a violation may have occurred. *People v Fisher*, 463 Mich 881, 882; 617 NW2d 37 (2000) (Corrigan, J., concurring). Further, a police officer who witnesses the commission of a civil infraction "may stop the person, detain the person temporarily for purposes of making a record of vehicle check," and issue a written citation. MCL 257.742(1).

The officer testified that he stopped defendant's vehicle for two reasons: (1) it was traveling in the far inside or "fast lane" of southbound I-75 without passing anyone, and (2) it had "a window-tint violation."

A driver is generally required to drive on the right side of a road. MCL 257.634(1). If a road has two or more lanes, a driver should stay in the extreme right-hand lane except to pass or for other reasons cited unless all lanes are occupied. MCL 257.634(1)(a) and (2). A violation of § 634 is a civil infraction. MCL 257.634(4). However, § 634 does not "prohibit a vehicle traveling in the appropriate direction from traveling in any lane of a freeway having 3 or more lanes for travel in the same direction." MCL 257.634(3). There is no dispute that I-75 is a freeway, see MCL 257.18a, and it is uncontested that southbound I-75 had three lanes going in the same direction. Therefore, the fact that defendant's vehicle was in the fast lane even though not all lanes were occupied or that defendant's vehicle was not passing another vehicle did not constitute a violation of § 634. Therefore, the officer did not have reason to believe that defendant's vehicle was in violation of § 634.

A person is prohibited from driving a vehicle with a window application or film on the front windshield and the front side windows except along the top edge of the windows. MCL 257.709(1)(a). The rear windshield and rear side windows may have a window application or film or tinted glass as long as it has "a total solar reflectance" of less than 35 percent. MCL 257.709(1)(b) and (3)(b).

Apparently it is not disputed that defendant's car did not comply with window-tinting regulations imposed on Michigan vehicles. However, vehicles registered in another state are not subject to those regulations. MCL 257.709(3)(d). The prosecutor admits that defendant's car had an out-of-state license plate on it, but contends that a stop was appropriate to make sure the vehicle was properly registered in another state. But there is no evidence to indicate that the officer had any reason to believe that the displayed license plate was invalid. He had not run a LEIN check before he initiated the stop and did not identify any defect or irregularity suggesting that the plate was not valid. Therefore, the tinting, which would constitute a violation of § 709 for a vehicle registered in Michigan, did not create probable cause for stopping a vehicle registered in another state.

Because the officer did not have probable cause or a reasonable suspicion of a traffic violation, the trial court did not err in granting defendant's motion. Although the trial court's ruling was based on reasons unrelated to the validity of the stop, this Court will not reverse where the trial court reaches the right result for the wrong reason. *People v Lyon*, 227 Mich App 599, 612-613; 577 NW2d 124 (1998).

Affirmed.

/s/ Alton T. Davis
/s/ Joel P. Hoekstra
/s/ Pat M. Donofrio